

46 Am. Jur. 2d Judges § 176

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Judges

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IX. Disqualification to Act in Particular Case

C. Remedies and Procedure

3. Motion for Disqualification and Affidavit

a. In General

§ 176. Allegations and necessity for setting forth grounds for disqualification of judge

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  51(3)

Forms

Forms relating to motions to disqualify judge, or withdraw voluntarily as judge, generally, see Am. Jur. Pleading and Practice Forms, Judges [[Westlaw®\(r\) Search Query](#)]

A motion to disqualify a judge must be well-founded and contain facts germane to the judge's undue bias, prejudice, or sympathy¹ or set forth circumstances such that a reasonable person would question whether the judge could rule impartially.² A litigant's vague and unverified assertions of opinion, speculation, and conjecture are insufficient.³

Alleging implied bias on the part of a judge is insufficient without facts supporting a reasonable inference that such implied bias exists.⁴ An ambiguous motion should not be summarily denied without allowing the moving party to clarify the mistake, if the party requests such an opportunity.⁵

When peremptorily challenging a judge, the movant need not allege any reason therefor.⁶

Footnotes

- 1 Williams v. State, 987 So. 2d 1 (Fla. 2008); Towbin Dodge, LLC v. Eighth Judicial Dist. Court of State ex rel. County of Clark, 121 Nev. 251, 112 P.3d 1063 (2005).
As to the basis of a motion in federal court, see Am. Jur. 2d, Federal Courts § 48.
- 2 State v. Kennedy, 110 N.C. App. 302, 429 S.E.2d 449 (1993).
- 3 State v. Bunker, 89 Conn. App. 605, 874 A.2d 301 (2005); State v. Maten, 899 So. 2d 711 (La. Ct. App. 1st Cir. 2005), writ denied, 922 So. 2d 544 (La. 2006).
- 4 Goldman v. Bryan, 104 Nev. 644, 764 P.2d 1296 (1988).
- 5 People v. Langford, 246 Ill. App. 3d 460, 186 Ill. Dec. 438, 616 N.E.2d 628 (5th Dist. 1993).
- 6 § 179.
As to necessity of filing affidavits, see § 181.

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